

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 14, 2005 ("Office Action"). At the time of the Office Action, Claims 1-53 were pending in the application. In the Office Action, the Examiner rejects Claims 1-53 and objects to Claim 45. Applicants amend Claims 1-6, 14-15, 22-28, 36-37, 44-45 and 52-53 and add new Claims 54-58. Applicants respectfully request reconsideration and favorable action in this case.

Examiner Interview

Attorney for Applicants (Chad C. Walters, Reg. No. 48,022) conducted a telephone conference with Examiner Ryan Hsu on November 9, 2005. Applicants appreciate the Examiner's time in conducting the telephone conference. Claim 1 was discussed in the telephone conference with respect to the cited references used in the claim rejections.

Claim Objections

Claim 45 is objected to under M.P.E.P. 608.01(m) and 37 C.F.R. § 1.75(i) as failing to meet the requirement to formulate the claim in a single sentence format. Applicants have amended Claim 45 such that it is in a single sentence format. Applicants request withdrawal of the objection to the claim.

Section 101 Rejections

The Examiner rejects Claims 1-22, and 45-53 under 35 U.S.C. 101 as being directed to non-statutory subject matter. The Office Action states that the "claims merely involve the manipulation of an abstract idea 'determining an amount of a total payout' and/or 'determining an amount to be paid'." Office Action, page 2. The Office Action also states that "[t]here is no practical application of this abstract idea claimed. Thus the claims do not meet the requirements for statutory subject matter under 35 U.S.C. 101." *Id.* Applicants respectfully traverse these rejections.

35 U.S.C. § 101 states that "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements

of this title." The Supreme Court has stated that the claimed invention must produce a "useful, concrete and tangible result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). Furthermore, the M.P.E.P. states:

The applicant is in the best position to explain why an invention is believed useful. Office personnel should therefore focus their efforts on pointing out statements made in the specification that identify all practical applications for the invention. Office personnel should rely on such statements throughout the examination when assessing the invention for compliance with all statutory criteria. An applicant may assert more than one practical application, but only one is necessary to satisfy the utility requirement.

M.P.E.P. § 2106. Applicants respectfully submit that each of Claims 1-22 and 45-53 produce a useful, concrete and tangible result. For example, Claim 1 recites a method for managing bets that includes determining an amount of a total payout based at least in part on a betting pool formed by combining each bet amount where each received bet includes a selection of a first number of events from a group of events and a selection of a respective participant for each of the first number of events selected. The determined total payout amount may be paid to bettors selecting winning participants. Applicants' Specification discusses embodiments with respect to horseracing, football and other fields. With respect to a particular embodiment of Applicants' invention, the Specification states that bettors are given the opportunity to select a certain number of events out of a group of events and to bet on each event selected, with all such bets going to a pool for distribution to winners of such bets. *See* Specification, page 5, lines 4-7. A bettor may thus select events that the bettor feels he has the best chance to correctly pick the winners. *See id.* at page 5, lines 7-8. Applicants' specification thus asserts at least one practical application of Applicants' invention. Therefore, Applicants respectfully submit that the Examiner's rejection of Claims 1-22 and 45-53 under 35 U.S.C. § 101 be withdrawn.

Section 102 Rejections

The Examiner rejects Claims 1-12, 14-17, 22-34, 36-39, 44-49 and 52 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,554,708B1 to Brenner et al. ("*Brenner*"). Applicants respectfully traverse these rejections.

To anticipate a claim, each and every limitation must be found in a reference. *See* M.P.E.P. § 2131. "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989) (*emphasis added*). In addition, "[t]he elements must be arranged as required by the claim" *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990) (*emphasis added*).

Claim 1 recites:

A method for managing bets, comprising:
 receiving a plurality of bets, each bet comprising:
 a selection of a first number of events selected from a group of events;
 a selection of a respective participant for each of the first number of events selected; and
 a bet amount;
 wherein at least one selected event of a first bet of the plurality of bets comprises a different event from at least one selected event of a second bet of the plurality of bets
 combining each bet amount to form a betting pool; and
 determining an amount of a total payout based at least in part on the betting pool.

Claims 23, 45 and 53 each recites similar elements. The Office Action contends that *Brenner* discloses these elements. *See* Office Action, page 3. *Brenner* discloses an interactive off-track wagering system allowing a user to review racing information and place bets using an off-track terminal. *See Brenner*, Abstract. *Brenner* generally discloses receiving bets including wager type and selected runners and also generally discloses displaying odds and payouts. *See Brennan*, col. 11, line 51 – col. 12, line 9 and col. 13, line 41 – col. 14, line 8. However, *Brenner* does not disclose determining an amount of a total payout based at least in part on a betting pool formed from a combination of bet amounts of bets that each include a selection of a first number of events wherein at least one selected event of a first bet of the bets comprises a different event from at least one selected event of a second bet of the bets. Nowhere does *Brenner* disclose, teach or suggest determining a total payout based on a betting pool of bet amounts for a plurality of bets that may include at least one different event. The general disclosure of displaying odds and races and receiving bets including wager type and selected runners does not provide the necessary disclosure to anticipate these claims.

Therefore, for at least these reasons, Applicants respectfully submit that Claims 1, 23, 45 and 53 are patentable over the cited art used in the rejections and request that the rejections of these claims be withdrawn.

Claims 2-12, 14-17 and 22 each depends, either directly or indirectly, from independent Claim 1; Claims 24-34, 36-39 and 44 each depends, either directly or indirectly, from independent Claim 23; and Claims 46-49 and 52 each depends, either directly or indirectly, from independent Claim 45. Therefore, for at least the reasons discussed above with respect to Claims 1, 23 and 45, Applicants respectfully submit that Claims 2-12, 14-17, 22, 24-34, 36-39, 44, 46-49 and 52 are patentable over the cited art used in the rejections and request that the rejections of these claims be withdrawn.

Section 103 Rejections

The Examiner rejects Claims 18-21, 40-43 and 50-51 under 35 U.S.C. 103(a) as being unpatentable over *Brenner* as applied to the claims above, and further in view of U.S. Patent 5,842,921 to Mindes, et al. ("*Mindes*"). The Examiner rejects Claims 13 and 35 under 35 U.S.C. 103(a) as being unpatentable over *Brenner* as applied to the claims above, and further in view of U.S. Patent 5,452,899 to Skratulia, et al. ("*Skratulia*"). Applicants respectfully traverse these rejections.

Claims 13 and 18-21 each depends, either directly or indirectly, from independent Claim 1; Claims 35 and 40-43 each depends, either directly or indirectly, from independent Claim 23; and Claims 50-51 each depends, either directly or indirectly, from independent Claim 45. Therefore, for at least the reasons discussed above with respect to Claims 1, 23 and 45, Applicants respectfully submit that Claims 13, 18-21, 35, 40-43 and 50-51 are patentable over the cited art used in the rejections and request that the rejections of these claims be withdrawn.

New Claims

Applicants add new Claims 54-58. Claims 54-58 contain no new matter and are fully supported by the specification as filed.

Claims 54 depends from Claim 1, and Claim 55 depends from Claim 23. Applicants respectfully submit that Claims 54 and 55 are allowable over the cited art used in the previous rejections for at least the reasons discussed above with respect to Claims 1 and 23. In addition, the cited art used in the rejections does not disclose, teach or suggest determining an amount of a total payout based at least in part on a betting pool formed from a combination of bet amounts of bets that each include a selection of a first number of events wherein at least one selected event of a first bet of the bets comprises a different event that is of a different type than at least one selected event of the second bet. For example, one embodiment in Applicants' Specification provides that a bets combined in a pool may include baseball games and basketball games. *See* Specification, page 9, lines 19-20. For at least the reasons discussed above, Applicants respectfully request allowance of Claims 54 and 55.

Claim 56 recites determining an amount of a total payout based at least in part on a betting pool formed from a combination of bet amounts of a first bet that includes a first selected number of events comprising at least a first event and a second bet that includes a second selected number of events comprising at least a second event different from the first event. None of the cited references used in the rejections disclose, teach or suggest these elements. Therefore, Applicants respectfully request allowance of Claim 56.

Claims 57 and 58 each depends from Claim 56. Applicants respectfully submit that Claims 57 and 58 are allowable over the cited art used in the previous rejections for at least the reasons discussed above with respect to Claim 56.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Chad C. Walters, Attorney for Applicants, at the Examiner's convenience at (214) 953-6511.

A check in the amount of \$450.00 is enclosed to cover the cost of the added claims. The Commissioner is hereby authorized to charge any other fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants

A handwritten signature in black ink, appearing to read "Chad C. Walters", with a stylized flourish at the end.

Chad C. Walters
Reg. No. 48,022

Date: November 11, 2005

CORRESPONDENCE ADDRESS:

at Customer No. **05073**